

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA AND
THE STATE OF TEXAS
ex rel. SANDY CASTILLO AND
DR. SARA APSLEY-AMBRIZ,

Plaintiffs,

vs.

PHYNET, INC., PHYNET, INC. d/b/a
SOUTH CENTRAL TEXAS PRIMARY CARE
AND RICHARD CLAY TURNER,

Defendants.

Civil Action No. SA-11-CA-474-OLG

VERIFIED MOTION TO WITHDRAW AS COUNSEL FOR PHYNET, INC. AND PHYNET,
INC. D/B/A SOUTH CENTRAL TEXAS PRIMARY CARE
AND
PHYNET'S MOTION FOR EXTENSION OF TIME TO RESPOND
TO POST-JUDGMENT DISCOVERY

TO THE HONORABLE JUDGE OF SAID COURT:

Counsel Lorinda Holloway, Afton D. Sands, and the law firm of Husch Blackwell, LLP (collectively "Husch Blackwell"), attorneys for Phynet, Inc. and PhyNet, Inc. d/b/a South Central Texas Primary Care ("PhyNet") seek to withdraw as counsel of record in this case and PhyNet seeks a 30-day extension of time to respond to post-judgment discovery, which has a current deadline of Monday, December 29, 2014. In support of the motion, movants respectfully show the Court as follows:

A. Background

Relators filed their sealed *qui tam* Complaint in June 2011. [Docket #1.] Thereafter, the United States initiated an investigation of the claims, and PhyNet retained Brown McCarroll, LLP (which later merged with Husch Blackwell in July 2013) to represent it in the investigation

and the related litigation. By early 2014, the parties settled the case, which included a five-year payment plan with the Government for PhyNet and leaving for later determination the amount in attorney's fees to be awarded to Relators' counsel. [Docket #26.] After briefing on the matter, the Court awarded Relators' counsel \$2,217.61 in expenses and \$103,405.20 in fees, to be imposed jointly and severally against all Defendants. Relators have initiated post-judgment discovery.

B. Withdrawal

Husch Blackwell seeks to withdraw as counsel of record for PhyNet because "the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services, including an obligation to pay the lawyer's fees as agreed, and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled." Rule 1.15(b)(5) of the Texas Disciplinary Rules of Professional Conduct. Moreover, movant believes withdrawal can be accomplished without material adverse effect on the interests of the client. Rule 1.15(b)(1). The substance of the case is complete, and the only pending deadline is a December 29, 2014 deadline for PhyNet to respond to Relators' post-judgment written discovery related to the collection of their attorneys' fees. As noted below, PhyNet seeks a 30-day extension of that deadline.

A copy of this Motion has been delivered to PhyNet and all counsel of record, and this Motion bears PhyNet's signature as required by Local Rule AT-3. No successor attorney is yet known, and therefore PhyNet's name, address, and telephone number are hereby provided as required by Local Rule AT-3:

PhyNet, Inc.
4002 Technology Center
Longview, Texas 75605
Tel: 903-247-0484

C. 30-day Extension of Time to Respond to Post-Judgment Discovery

On November 25, 2014, Relators served post-judgment Interrogatories and Requests for Production on PhyNet, attached as Exhibit A and Exhibit B, respectively. There are 25 Interrogatories seeking a variety of information, some going back five years, and 47 Requests for Production seeking a wide variety of financial-related documents, most of which seek documents going back five years. Id. PhyNet seeks an additional 30 days (or to Wednesday, January 28, 2015) to respond to the post-judgment discovery and additional time to retain new counsel to assist with it and any other issues that may arise in the post-judgment process. The request is not just for delay but so that justice may be done. Additionally, given the post-judgment posture of the case, a 30 day extension to answer post-judgment discovery will not inconvenience the Court nor prejudice the opposing party. Indeed, post-judgment discovery has just begun now that the Order denying Defendant Turner's motion to reconsider the Order granting fees was just issued September 15, 2014 [Docket #41].

D. Certificate of Conference

In conferring with all counsel of record on this motion, the undersigned counsel asked whether any party opposes the motion to withdraw and also asked Relators' counsel whether they would agree to a 30 day extension of the deadline to respond to the Relators' post-judgment discovery. Defendant Richard Clay Turner does not oppose withdrawal. Relators initially advised they would not oppose withdrawal if PhyNet meets certain conditions, one of which included responding to post-judgment discovery by the original deadline, but the conditions were not agreeable to PhyNet. Upon further inquiry of whether Relators would agree to a 30 day extension, Relators advised they would agree to a two-week extension. Given the extensive

nature of the post-judgment discovery and the fact that PhyNet needs time to find new counsel, PhyNet seeks a 30 day extension or until January 28, 2015 to respond.

WHEREFORE, for the foregoing reasons, Lorinda Holloway and Husch Blackwell, LLP respectfully pray that the Court grant their Motion to Withdraw as Counsel for Phynet, Inc. and PhyNet, Inc. d/b/a South Central Texas Primary Care, and PhyNet prays that the Court grant its Motion for Extension of Time to Respond to Post-Judgment Discovery. Movants further seek the granting of such other and further relief to which they may be entitled under equity or law.

Respectfully submitted,


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/s/ Lorinda Holloway

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ATTORNEYS FOR PHYNET, INC, AND
PHYNET, INC. d/b/a SOUTH CENTRAL TEXAS
PRIMARY CARE

AGREED:



John D. Ford
President
PhyNet, Inc.
4002 Technology Center
Longview, Texas 75605
Tel: 903-247-0484

VERIFICATION

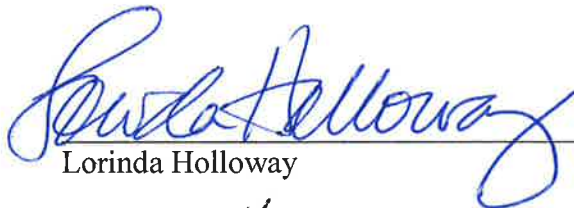
THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned authority, on this day personally appeared, Lorinda Holloway, known to me to be the person whose name is subscribed hereto, who first being duly sworn in the matter provided by law, on her oath, stated as follows:

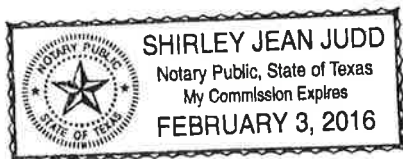
1. My name is Lorinda Holloway. I am over the age of 21 years, and am capable of making this verification.

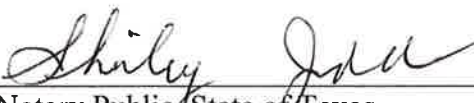
2. I am a lawyer with the law firm of Husch Blackwell, LLP. I have read the above Motion to Withdraw as Counsel and PhyNet's Motion for Extension of Time to Answer Post-Judgment Discovery in Civil Action No. SA-11-CA-474-OLG. All of the facts set forth in the motion which may require verification are true and correct.

Further Affiant sayeth not.


Lorinda Holloway

Subscribed and sworn to before me on this the 9th day of December, 2014.




Notary Public, State of Texas

CERTIFICATE OF CONFERENCE

As more fully described in the motion, I hereby certify that I conferred with counsel of record for each party on December 4, 2014 and further on December 8, 2014 regarding this motion.


Lorinda Holloway

CERTIFICATE OF SERVICE

I certify that on December 9, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such to the following:

John Clark
Goode Casseb Jones
Riklin choate & Watson
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San Antonio, Texas 78212
Counsel for Relator

Glenn MacTaggart
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San Antonio, Texas 78216
Counsel for the United States of America

/s/ Lorinda Holloway
Lorinda Holloway